

INDEPENDENT CELLULAR NETWORK, INC.**I. IDENTITY AND INTEREST OF THE COMMENTER**

- Holds cellular authorizations in Pennsylvania and West Virginia. (1)

IV. REGULATORY PARITY

- The dispatch service prohibition should be eliminated for three reasons. First, since SMR licensees can provide interconnected mobile service, cellular licensees should be allowed to provide dispatch service. Second, allowing all private and commercial licensees to provide dispatch services will allow carriers to make more efficient use of available spectrum. Third, removing the prohibition will increase competition in the market place. (3-4)

INDUSTRIAL TELECOMMUNICATIONS ASSOCIATION, INC.**I. IDENTITY AND INTEREST OF THE COMMENTER**

- Trade association of radio users; FCC certified frequency coordinator in the private land mobile services.

II. DEFINITIONS**C. Private Mobile Service**

- The statute compels the FCC to treat those services that are not the functional equivalent of commercial mobile service as private mobile service. (3)
- When assessing which mobile services are not functionally equivalent to commercial mobile service, the FCC must factor in Congressional emphasis on ensuring competitive market conditions. Other factors to consider are the size of the radio system, the scope and nature of the services offered, the geographical area covered, the number of mobile units served, and the different classes of subscribers. (3-4)

III. PROPOSED REGULATORY TREATMENT OF EXISTING SERVICES

- The designation of private mobile service remains applicable to the vast majority of systems licensed in the Private Land Mobile Radio Services, including for-profit and non-profit shared systems and most SMRs. (5)
- Enhanced SMRs are more capable of competing with common carriers and could be viewed as commercial mobile service. (6)

IN-FLIGHT PHONE CORPORATION

000047

I. IDENTITY AND INTEREST OF THE COMMENTER

- In-Flight Phone Corp. is a licensee in the 800 MHz air-ground radiotelephone service. (1)

II. DEFINITIONS

B. Commercial Mobile Service

- 800 MHz air-ground service fits squarely into the definition of CMS. (2)

VI. APPLICATION OF TITLE II TO COMMERCIAL MOBILE SERVICES

- Commission should exempt air-ground service providers who have no substantial affiliation with a 'dominant carrier' from the obligation to comply with the 12 sections of Title II that regulate the conduct of those with market power. (2)
- Air-ground service providers affiliated with dominant carriers should remain subject to FCC regulations governing competitive communication services provided by such dominant carriers. (4)
- Commission should exempt all air-ground licensees from complying with Section 226. Enforcement of this provision is not necessary to meet Congress' objectives. (5)

LIBERTY CELLULAR, INC.

I. IDENTITY AND INTEREST OF THE COMMENTER

- RSA cellular system operator in Kansas.

IX. OTHER

- The FCC should not require CMS providers to invest in equal access capability. (5)
- In most cases, CMS subscribers will have access to the interexchange carrier of their choice through 1-800 access codes. (4)

LOWER COLORADO RIVER AUTHORITY**I. IDENTITY AND INTEREST OF THE COMMENTER**

- A conservation and reclamation district to establish flood control on the lower Colorado River and provide electric energy throughout central Texas. (1)

II. DEFINITIONS**A. Mobile Service**

- Commission should adopt reasonable definitions of commercial and private mobile service consistent with Congressional intent. (4)

B. Commercial Mobile Service

- Non-profit, cost-shared land mobile systems operated according to Section 90.179 do not satisfy the definition of CMS, and no purpose would be served by imposing unnecessary and burdensome regulation on them. (5-7)

C. Private Mobile Service

- Private mobile services should be those services which do not meet the definition of CMS or are not the functional equivalent of CMS. This interpretation avoids any possibility that a service which does not meet the CMS definition could still be regulated as a CMS. (9)

MCCAW CELLULAR COMMUNICATIONS, INC.**I. IDENTITY AND INTEREST OF THE COMMENTER**

- Cellular and paging carrier.

II. DEFINITIONS**B. Commercial Mobile Service**

- "For-profit" should be interpreted broadly to include any offering of for profit services to others, including licensees selling excess capacity, shared systems licensees and system managers that profit from such services. (15-16)
- "Interconnected" should mean connected to a network in a manner allowing end users to initiate and terminate communications to other telephones and devices connected to that network. (17)
- "Public switched telephone network" should mean the network of local and long distance telephone companies that form the telecommunication backbone, but not new CMS services. (17-18)
- "Available to the public . . ." should encompass all carriers serving a substantial portion of the public, notwithstanding limitations on subscriber eligibility, and carriers without eligibility limitations, since specialization or limitation to a specific geographic area does not render a service not "available to the public." (18-19)

C. Private Mobile Service

- "Functional equivalence" should be interpreted to include any for profit interconnected service and any service perceived by customers as a substitute for a CMS, since Congress' intent was to equalize regulatory treatment of competitive services. Construction of the statute should proceed on a case-by-case basis as new services are authorized or reclassification is warranted. (19-22)

III. PROPOSED REGULATORY TREATMENT OF EXISTING SERVICES

- PCPs and RCCs provide similar services that involve interconnected service, despite being "store-and-forward", and should be similarly regulated as CMS systems. (28-31)

IV. REGULATORY PARITY

- Like treatment for like services is a principle of the legislation, regardless of whether a carrier is new or existing, in order to enhance competition. (5-7)
- All carriers should be permitted to "self-designate", as proposed for PCS, to increase market responsiveness and assure parity. If carriers notify the FCC when new services are initiated, continued availability of CMS capacity will be assured. (12-14)

VI. APPLICATION OF TITLE II TO COMMERCIAL MOBILE SERVICES

- The Commission should forbear from application of Title II regulation to all CMS carriers, since the market will be competitive, tariff requirements are unnecessary to protect consumers in light of the complaint procedures, and maximum forbearance is in the public interest. (7-11)

VII. INTERCONNECTION RIGHTS OF PCS AND CMS PROVIDERS (STATE AND FEDERAL)

- The FCC should not reduce LEC interconnection obligations, in view of their bottleneck, but should not impose interconnection (or allow state-imposed interconnection obligations) on CMSs, which have no monopoly control over essential facilities. (31-32)

VIII. PREEMPTION OF STATE REGULATION OF CMS PROVIDERS

- Congress' intent was to restrict state regulation to cases where market breakdowns occur, alleviate regulatory disparities and avoid patchwork regulations; petitions to regulate (or continue regulations) should thus only be granted where supported by evidence of anticompetitive behavior or harm to consumers and should have explicit sunset provisions. (22-27)
- Where states are allowed to regulate, regulations should be conditioned to ensure that competitive disparities do not occur; i.e., state regulations should not be different for classes of carriers the FCC has not regulated differently. (24-25)
- Only a state entity responsible for radio regulation should be permitted to petition for authority to regulate, and only that entity or a carrier should be permitted to request deregulation. (25)
- State regulation of "terms and conditions" should not be a backdoor for reintroducing regulation of rates or entry. (27)

I. IDENTITY AND INTEREST OF THE CARRIER

- Interexchange carrier.

II. DEFINITIONS**A. Mobile Service**

- Urges Commission to find that the term "PCS" includes the full range of services described in the Notice, including ancillary fixed communications such as installation of fixed access units in consumer's homes. (4)

B. Commercial Mobile Service

- Allowing broadband PCS licensees to elect private carrier status is inconsistent with Congressional intent since it is the nature of the service, not the intent of the provider, that is relevant. (4)
- Allowing licensees to provide both private and common carrier services in the same spectrum is also inconsistent with the statute. Since CMS providers will be exempt from tariffing requirements, there is no need to give common carriers private carrier status for any portion of their spectrum. (5)
- If the Commission does allow broadband PCS applicants to elect private status, the provision of any commercial mobile service in spectrum designated as private should result in revocation of the entire license. (5)
- Advocates the Intelsat approach to defining interconnection, so that "store and forward" systems are treated as interconnected. (6)

C. Private Mobile Service

- Urges Commission to make private mobile services a narrow category. (6)

III. PROPOSED REGULATORY TREATMENT OF EXISTING SERVICES

- All CMS providers should be allowed to provide dispatch service since spectrum is no longer scarce

after recent reallocation. Artificial restrictions on service provision inhibit competition. (7)

**VII. INTERCONNECTION RIGHTS OF PCS AND CMS PROVIDERS
(STATE AND FEDERAL)**

- Mutual Compensation--CMS providers must pay LECs to terminate mobile-originated traffic, so CMS providers should receive compensation when the complete LEC-to-mobile calls. The Commission should declare that Section 202(a) may be violated if LEC interconnection charges imposed on PCS operators differ from interconnection charges LECs impose on one another. (3)
- Agrees that Part 22 interconnection rights should be extended to all CMS providers. (7)
- Commission should strongly encourage CMS providers to interconnect with other common carriers upon request. (7)
- PCS providers should be entitled to the same interconnection rights as the LEC makes available to other carriers and CMS providers should have co-carrier status with the LECs. (8-9)
- Agrees with Commission that it is not necessary to preempt state and local regulation of the LECs' charges for interconnection offerings to providers of interstate PCS, but should examine later if inhibit PCS development. (9)
- Urges Commission to rule that CMS providers' interconnection responsibilities include the provision of access to their mobile location databases to interexchange carriers. (10)
- Commission should consider requiring that every provider of CMS offer interconnection to other mobile service providers. (10)
- All CMS providers should be subject to basic equal access requirements. If competition increases, the Commission can consider whether to drop these requirements. All CMS providers should be required to give customers access to the long distance provider of the customer's choice at the customer's request. (12)

METRICOM, INC.**I. IDENTITY AND INTEREST OF THE COMMENTER**

- Developer and manufacturer of low-power radio frequency transmitter and receiver systems used to provide Part 15 services. (2)

II. DEFINITIONS**A. Mobile Service**

- The Commission should find that unlicensed PCS is not mobile service and thus not CMS. In order to be CMS, a service must be a mobile service under Budget Act Section 3 (n). Mobile service is defined by the same section as any service for which a license is required. This excludes unlicensed PCS. Since unlicensed PCS is not a mobile service, it is irrelevant whether it is the functional equivalent of CMS. (3)
- Since the Commission has recognized that unlicensed PCS and Part 15 services are generically identical, Part 15 services should be treated in the same manner as unlicensed PCS and not be treated as CMS. (4-5)

B. Commercial Mobile Service

- Automatic Vehicle Monitoring (AVM) systems should be classified as CMS. If AVM systems can serve Part 90 eligibles, individuals, and the Federal government, as the NPRM proposed, this is the same as providing service to a substantial portion of the public. (5-6)

MOBILE TELECOMMUNICATION TECHNOLOGIES CORP.**I. IDENTITY AND INTEREST OF THE COMMENTER**

- Nationwide paging provider and diversified mobile communications carrier. (1-2)

II. DEFINITIONS**A. Mobile Services**

- Supports the proposed definition. (4)

B. Commercial Mobile Service

- To avoid conflicts, "for-profit" should not include government, non-profit public safety service groups, and businesses operating systems solely for their own, internal use, but would include all other services provided by a licensee to subscribers. (5-6)
- "Interconnection" should be defined as in the Intelsat case; i.e., where an incoming call "terminates in a computer that can store and process the data and subsequently retransmit it over that network." (6)
- "Effectively available. . ." should mean available to a large segment of the population, regardless of whether eligibility restrictions exist, system capacity constraints exist, or the service covers only a limited geographic area. (8)

C. Private Mobile Service

- "Private mobile services" include all services that are neither literally CMS nor functionally equivalent to CMS, i.e., "functional equivalence," which should be judged by customer perception, contracts the class of private services. (9-10)

III. PROPOSED REGULATORY TREATMENT OF EXISTING SERVICES

- PCP store-and-forward systems should be deemed interconnected; in the event they are not, parity dictates extending private classification to all paging carriers utilizing the same store-and-forward technology. (7)
- CMS should include all functional equivalents of existing common carrier mobile services, including 800/900 MHz SMRS, both wide-area and traditional; 220

MHz SMRS, to the extent excess capacity can be used for commercial uses; and PCPs, including store-and-forward systems. (10-11)

VI. APPLICATION OF TITLE II TO COMMERCIAL MOBILE SERVICES

- Based on competition in mobile services, the FCC should forbear from tariff regulation of CMS. (13-15)
- Nationwide paging is also competitive, and no tariff regulation is warranted. (15-16)
- Supports CMS exemption from Title II regulations including 210 (franks & passes); 212 (interlocking directorates); 213 (valuation of property); 214 (termination of service); 215 (transactions relating to services); 218 (inquiries into management); 219 (annual or other reports); 220 (depreciation); and 221 (special provisions for telcos). (17-18)

MOTOROLA**I. IDENTITY AND INTEREST OF THE COMMENTER**

- Leading manufacturer of equipment for both private and common carrier mobile radio licensees. (3)

II. DEFINITIONS**B. Commercial Mobile Service**

- "For-profit" services are those offered by providers whose primary service is offering service to third parties for compensation. Providing "for-profit" service on an ancillary basis and management of communications systems by paid managers should not be considered "for-profit." (7)
- Interconnection should be defined as physical interconnection with the public switched network. It would not include facilities of mobile carriers. (7)
- Agrees with Commission's suggestion that a service is publicly available if 1) the service is offered to the public without restriction and 2) the eligibility rules for users are so broad as to constitute a substantial portion of the public. For example, PCP and SMR services would be publicly available whereas service restricted to limited population segments such as government or specific industry sectors would be private. (8)

C. Private Mobile Service

- Functional equivalence test should be applied on a case-by-case basis. The Commission should not discourage private operators from using new technologies by viewing increases in capacity as creating CMS. (11)

III. PROPOSED REGULATORY TREATMENT OF EXISTING SERVICES

- An appendix is included which explains recommended treatment of existing services. For example, Part 22 paging Part 90 PCP paging, and ESMR service would be CMS. SMR service, government, public safety, and industrial internal systems, non-profit sharing arrangements, stations managed by a third

party for a fee, and ancillary offerings to third parties of excess capacity of internal systems would be private.

- If services which have traditionally offered dispatch as well as services prohibited from offering dispatch are both classified as CMS, the prohibition on provision of dispatch services should be lifted at the end of the grandfathering period for private systems in 1996. (13)
- Supports FCC's proposed classifications for MSS: 1) space segment licensees should be classified on a case-by-case basis; 2) space segment licensees who propose to provide CMS directly to end users should be regulated as a common carrier; 3) provision of CMS to end users by resellers and ground segment licensees should be regulated on a common carrier basis. (13-17)
- MSS systems above 1 GHz (i.e., Big LEOs) should be regulated on a non-common carrier basis under the NARUC I test. (15)
- The Commission should issue a Further Notice of Proposed Rulemaking in this proceeding to deal with the regulation of international satellite services. (17)

IV. REGULATORY PARITY

- Like services should be regulated in a like manner while recognizing the functional differences that exist between various forms of for-profit operations. (21)

V. REGULATORY CLASSIFICATION OF PCS

- Supports allowing PCS licensees to choose whether to offer commercial or private mobile service. (12)

VI. APPLICATION OF TITLE II TO COMMERCIAL MOBILE SERVICES

- Because of the competitive nature of the CMS market, the FCC should fully exercise its forbearance authority, including tariff requirements and related regulations. (17)
- TOCSIA regulation is unnecessary because the problems it was designed to prevent have not occurred in the mobile services market, and enforcement would impose significant burdens on carriers without benefitting consumers. (19)

- Paging service providers should be exempt from TRS contributions paging services are already accessible to the hearing impaired. (19)

**VII. INTERCONNECTION RIGHTS OF PCS AND CMS PROVIDERS
(STATE AND FEDERAL)**

- Part 22 interconnection rights should be extended equally to all CMS providers. (20)
- Interconnection rights for private mobile service providers should be strengthened so that they can request and receive the level of interconnection necessary to provide the type of service desired. (21)

VIII. PREEMPTION OF STATE REGULATION OF CMS PROVIDERS

- Because of significant competition in the CMS market, states wishing to continue or implement rate regulation should satisfy a high evidentiary threshold. Because regulations remain in force during the pendency of a state petition, procedures for rapid determination of such petitions should be implemented. (20)

MPX SYSTEMS**I. IDENTITY AND INTEREST OF THE COMMENTER**

- MPX is a provider of a statewide wireless communication network in South Carolina. MPX intends to utilize a pool of 800 MHz frequencies to provide two-way radio service to public safety, utility and government entities. (2)

II. DEFINITIONS**B. Commercial Mobile Service**

- "Public availability" criteria should distinguish providers that truly limit their customer base from providers that have specific terms and conditions that can be satisfied by any potential subscriber. (3)
- Providers such as MPX, who offer wide-area service that only serve a select community, should not be regulated as a CMS. (5)

NATIONAL ASSOCIATION OF BUSINESS AND EDUCATION RADIO**I. IDENTITY AND INTEREST OF THE COMMENTER**

- Trade association and frequency coordinator. Its positions are based on reactions to a white paper (attached as exhibit) sent to its membership upon enactment of the Budget Act. (3-5)

II. DEFINITIONS**A. Mobile Services**

- Agrees that all existing mobile services are within statutory definition of "mobile services." (6)

B. Commercial Mobile Service

- Systems that are operated substantially on a non-profit basis or are not principally engaged in for-profit service to third parties should not be considered CMS. (7)
- Assessments of interconnection for definitional purposes should include only physical interconnection available to end users, excluding interconnection solely for control purposes. (8)
- The Millicom case was interpreting "interconnection" in a different context; for purposes of CMS, store-and-forward paging systems should be deemed interconnected, since Congress intended to include PCPs within CMS. (8-10)
- Agrees that CMS is satisfied where service is offered without restriction or eligibility rules are so broad as to constitute a substantial portion of the public, including SMRs and PCPs, but not including community repeater or other non-profit licensees. (10)

C. Private Mobile Service

- The "functional equivalence" language was intended to allow the FCC to exclude from CMS some non-frequency re-use, non-wide-area SMRs. NABER believes that others could be excluded under this language (e.g., traditional dispatch SMR offering only ancillary interconnected service), but is concerned that case by case analysis may create uncertainty and opportunity for legalistic maneuvering. (11-12)

WILEY, REIN & FIELDING

III. PROPOSED REGULATORY TREATMENT OF EXISTING SERVICES

- Conversion from private to CMS should not be a huge regulatory hurdle. (12)
- Existing common carriers reclassified as CMS should be barred from providing dispatch until 1996 to avoid disruptions to private carriers who have built their businesses on dispatch. (13)

IV. REGULATORY PARITY

- FCC should be careful to ensure it does not sweep into CMS systems where the costs of complying with CMS regulation would dwarf their resources; agrees with regulatory parity, but small carriers should not be required to comply with regulations designed for large carriers, considering market share, number of competitors, entry barriers, availability of substitute services, control over bottleneck facilities, and potential for future market entrants. (15-16)

V. REGULATORY CLASSIFICATION OF PCS

- Commission should provide for both private and CMS PCS to ensure maximum flexibility and recognize private user needs. (13-14)

VI. APPLICATION OF TITLE II TO COMMERCIAL MOBILE SERVICES

- Proposes two classes of CMS providers: (1) a class of highly competitive services that are near open entry (e.g., 220 MHz, PCP, RCC, 800/900 MHz private systems) for which maximal deregulation is appropriate; (2) a class of carriers that exert some market influence due to the size of their spectrum block or economic control over a market, for which more regulatory oversight may be necessary. (13-14)
- The FCC should preserve the best parts of both the PRB and the CCB, and should utilize the licensing and regulatory approach of the PRB. (16-17)

VII. INTERCONNECTION RIGHTS OF PCS AND CMS PROVIDERS (STATE AND FEDERAL)

- All CMS providers and private users should have a federally protected right of interconnection on par with the rights of existing Part 22 carriers. (17)

VIII. PREEMPTION OF STATE REGULATION OF CMS PROVIDERS

- States petitioning to regulate should satisfy a substantial evidentiary showing. (17)

NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS**I. IDENTITY AND INTEREST OF THE COMMENTER**

- Trade association for state public utility commission interests.

II. DEFINITIONS**A. Mobile Services**

- Agrees with proposed definition of "mobile services," and notes that it includes PCS and similar services. (8-9)

B. Commercial Mobile Service

- Definitional terms should be construed broadly to ensure that CMS classification is applied to carriers that purport to sell non-profit interconnection; to services available to a large sector of the public, regardless of eligibility limitations; and to services offered via individual negotiation. (13-17)
- The FCC's approach to defining "interconnection" in the Intelsat cases comports with Congressional intent to extend CMS regulation to services providing the functional equivalent of CMS. (16)

C. Private Mobile Service

- Congressional intent shows that the "functional equivalence" language broadens the category of CMS services by including otherwise private services that are functionally equivalent to CMS. (18-19)
- "Functional equivalence" should be assessed by the nature of the service and customer perception. (19-20)

III. PROPOSED REGULATORY TREATMENT OF EXISTING SERVICES

- At a minimum, ESMRs, store-and-forward paging carriers, and existing common carriers should be classified as CMS. (12-13)

V. REGULATORY CLASSIFICATION OF PCS

- All PCS should be considered CMS; if the self-designation option is used, the FCC should establish filing and reporting requirements to ensure any private services qualify as such. (9-10)

**VII. INTERCONNECTION RIGHTS OF PCS AND CMS PROVIDERS
(STATE AND FEDERAL)**

- Preemption of state intrastate interconnection policies is premature, and the proposal to preempt state rate regulation of interconnection tariffs is unsupported as a matter of law or policy. (20-22)

VIII. PREEMPTION OF STATE REGULATION OF CMS PROVIDERS

- States that demonstrate that CMS has become a substitute for landline service should not also have to demonstrate market impact. (5-7)
- Any criteria to screen state petitions should not be exclusive or exhaustive--a state's ability to demonstrate the impact of developing market conditions should not be limited. (7)
- The FCC should utilize the maximum period permissible as the "reasonable" time before petitions to deregulate will be received. (7-8)
- Suggests the need for states and the federal government to share information on service monitoring based on the jurisdictional divisions established by the Budget Act. (11-12)

NATIONAL CELLULAR RESELLERS ASSOCIATION**I. IDENTITY AND INTEREST OF THE COMMENTER**

- Trade association for cellular resale carriers.

III. PROPOSED REGULATORY TREATMENT OF EXISTING SERVICES

- Although NCRA supports minimal regulation, the FCC must recognize that use of its regulatory powers may be necessary to fulfill its responsibilities under the Communications Act. (1-7)
- Entry barriers in the form of spectrum availability limits exist for the cellular industry, which cannot be viewed as competitive on a facilities basis. (9)
- Requiring cellular carriers to establish cost-based wholesale rates is a predicate for resale competition in the cellular industry. (10)
- Because the FCC now has unitary authority over interconnection and interconnection rates, consistent with other pro-competitive policies such as Expanded Interconnection, the FCC should create a viable resale market for cellular. (11-13)
- In order to ensure and reaffirm the availability of interconnection rights, the FCC should consider cellular resellers as CMS. (21)

VI. APPLICATION OF TITLE II TO COMMERCIAL MOBILE SERVICES

- Successful implementation of a CMS marketplace requires establishing a viable resale industry, since the FCC has recognized on numerous occasions the benefits of resale. (7-8)
- A competitive mobile services market is a prerequisite to forbearance from Title II regulations by the FCC, a condition that does not exist. (13-16)
- If the FCC were to establish NCRA's proposed CMS regulations, a structural response would exist to the question of whether safeguards need to be placed on CMS affiliates of dominant carriers. (22-23)

VII. INTERCONNECTION RIGHTS OF PCS AND CMS PROVIDERS (STATE AND FEDERAL)

- NCRA does not object to forbearance if it can obtain the necessary cost-based facilities it needs from cellular carriers and has rules that enforce access to

such rates; to get to this point, the FCC should establish differential regulation of wholesale and retail rates, require the filing of unsupported wholesale tariffs, require carriers to provide cost-justification for rates if a complaint is filed under Section 208, and extend the Expanded Interconnection policies to govern interconnection with CMS carriers. (17-21)

- CMS carriers should be required to provide interconnection to all other CMSs. (23-24)

VIII. PREEMPTION OF STATE REGULATION OF CMS PROVIDERS

- Unless all CMS providers, like resellers, have a Federally mandated right of equal access to LECs, IXCs, and open entry, on a cost-based basis, to the services of facilities-based CMS providers, state regulation should be kept open as a viable alternative. (23)
- The FCC should establish a standard of review of state petitions to reregulate or extend regulations that is sufficiently generous to ensure that local and state interests may continue to exercise their state statutory duties. (24-25)

NATIONAL TELEPHONE COOPERATIVE ASSOCIATION**I. IDENTITY AND INTEREST OF THE COMMENTER**

- National association of approximately 500 small LECs. (1)

II. DEFINITIONS**B. Commercial Mobile Service**

- The distinctions between CMS and private mobile service are unclear. If an NTCA member offered cellular service directly to a customer, it would be non-profit since they are non-profit entities. If it offered the service through an affiliate, then it would be for-profit. (5)

IV. REGULATORY PARITY

- Urges Commission to regulate cellular, SMRs, and PCS similarly since these services will be competing against each other. (3)

V. REGULATORY CLASSIFICATION OF PCS

- Supports allowing PCS licensees to provide both commercial and private mobile service regardless of frequency use. However, when service providers change the use of their spectrum, the FCC must maintain regulatory parity and impose common carrier regulations on those who are providing commercial services. (4)

VI. APPLICATION OF TITLE II TO COMMERCIAL MOBILE SERVICES

- Agrees with FCC's tentative view that tariffs are unnecessary in the mobile services market because of the level of competition. (5)
- Believes that forbearance from tariffs and other Title II regulation for PCS will encourage rapid growth and the entry of new firms. (5)
- Regulatory relief is especially important for rural telephone companies and other designated entities for whom the Commission is mandated to ensure the opportunity to provide wireless services under Section 309(j). (6)
- Urges Commission to subject private carriers reclassified as CMS carriers to the same

WILEY, REIN & FIELDING

regulations as new carriers of CMS services. PCS will be competing with these reclassified services so they should all be subject to the same regulations. (6-7)

- Agrees that Commission should forbear from tariff regulation for all CMS, including PCS. (7)
- Recommends that the Commission forbear from enforcing Sections 223, 224, 226, and 228 for CMS until the industry has more information and experience on the technical feasibility of complying with these provisions. (7)

**VII. INTERCONNECTION RIGHTS OF PCS AND CMS PROVIDERS
(STATE AND FEDERAL)**

- Agrees with preemption of state regulation of LEC provision of interconnection for CMS but takes no position on regulation of interconnection rates. (7)

NEW PAR**I. IDENTITY AND INTEREST OF THE COMMENTER**

- 50/50 partnership between PacTel Corporation and Cellular Communications, Inc. providing cellular service in Michigan and Ohio. (1-2)

II. DEFINITIONS**B. Private Mobile Service**

- The "functional equivalent" language must be interpreted consistent with the overall intent of the Budget Act to ensure consistent treatment of functionally similar carriers. (7)

III. PROPOSED REGULATORY TREATMENT OF EXISTING SERVICES

- The FCC should permit existing common carriers to provide dispatch services to allow them to better serve their customers, to promote competition in dispatch services, and because there is no technical reason to preclude cellular carriers from such offerings. (14-16)

IV. REGULATORY PARITY

- It is unnecessary and unwarranted to divide CMS into PCS, common carrier mobile services, and private mobile services, since these classes differ only in technical design; none of these classes will have marketplace power over another; and competition would be served by allowing these classes to freely compete on price and functionality. (2-5)
- The FCC must make a specific determination under the three part test of 332(c)(1)(A) before imposing disparate regulations. (5-6)

VI. APPLICATION OF TITLE II TO COMMERCIAL MOBILE SERVICES

- Competitive pressures and Section 208 are sufficient to ensure just, reasonable, and non-discriminatory rates and practices and protect consumers. (6)
- The FCC should detariff CMS, since the mobile voice market is competitive and will be more competitive as new entrants arrive, which is demonstrated through a historical comparison of cellular rates. (8-9)
- The benefits of detariffing are demonstrable by reference to the interexchange service market. (9-11)